

SOUTHERN ENVIRONMENTAL LAW CENTER

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VIA ELECTRONIC MAIL

VIA FOIAonline (foiaonline.regulations.gov) and U.S. Mail

Regional Freedom of Information Officer
U.S. EPA, Region 4
AFC Bldg, 61 Forsyth Street, S.W., 9th Flr (4PM/IF)
Atlanta, GA 30303-8960

**Re: Freedom of Information Act Request and Fee Waiver Request for
information about the coal ash pond(s) at Georgia Power's Plant Scherer**

Dear Sir or Madam:

This is a request for records in the custody of the United States Environmental Protection Agency ("EPA") submitted by the Southern Environmental Law Center ("SELC"). SELC is a non-profit, public-interest organization which advocates for, and represents other organizations that also advocate for, among other things, adequate implementation of and compliance with federal environmental protection laws, including the Clean Water Act ("CWA") and the Resource Conservation and Recovery Act ("RCRA").

A. Request for Records

Under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), SELC requests the following documents related to Georgia Power Company's Plant Scherer, located at 10986 Highway 87, Juliette, Georgia 31046 in Monroe County:

1. Documents concerning groundwater monitoring and data within and in the vicinity of Plant Scherer, including those reflecting or concerning groundwater elevation;
2. Floodplain maps or documents identifying the 100-year flood zone encompassing Plant Scherer or in the vicinity of Plant Scherer;
3. Documents identifying, describing, concerning or related to groundwater wells in the vicinity of Plant Scherer, including residential wells;
4. Documents entailing or identifying communications with Georgia Power Company concerning the federal Coal Combustion Residuals ("CCR") Rule and compliance with the CCR Rule;

5. Documents identifying the soil composition within and in the vicinity of Plant Scherer, including but not limited to environmental investigation reports, soil boring logs, geological studies or investigations, historical geological surveys or memos, emails, letters or other communications concerning, identifying or depicting the subsurface soils at Plant Scherer or in its vicinity;
6. Documents identifying or related to in-person meetings, email communications, or phone communications among EPA officials and representatives of Georgia Power Company concerning Plant Scherer's coal ash ponds and/or closure of the same;
7. Documents identifying or reflecting communications received from residents, governmental officials, agencies, members of the media or other third persons concerning actual, suspected or possible groundwater pollution within or in the vicinity of Plant Scherer, including complaints, inquiries, comments, or requests for investigation;
8. Notices required under the CWA and/or RCRA relating to Plant Scherer, and all related documents, including but not limited to those reflecting any subsequent investigation and corrective action.

For purposes of our requests, we ask for documents from 1997 to the present date. The term "documents" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession, custody, or control of EPA, in final or draft form.

Additionally, for purposes of this request, you may exclude any materials that are currently available on EPA's publicly-accessible website.

B. Fee Waiver Request

SELC seeks a fee waiver in connection with this request for records. Fee waivers are to be granted whenever disclosure would serve the public interest (as opposed to a commercial interest) and would contribute significantly to public understanding of government operations or activities. 5 U.S.C. § 552(a)(4)(A)(iii). The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of waivers. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987); *Pederson v. Resolution Trust Corp.*, 847 F. Supp. 851, 855 (D. Colo. 1994); *Etlinger v. FBI*, 596 F. Supp 867, 872 (D. Mass. 1984). The statute is intended to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers" in the past. *Pederson*, 847 F. Supp. at 855.

Here, the request would serve no commercial interest. SELC, a non-profit public interest organization, lacks any commercial interest in the records, and none of its clients have any such interest. SELC is dedicated to using the power of the law to protect clean air, clean water, and special places throughout the six Southeastern states in which we work: Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia. SELC does not charge its clients for

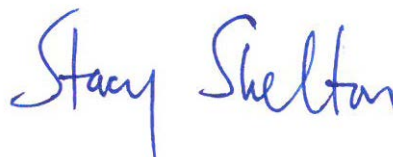
legal advice or representation; instead, SELC provides such advice and representation free of charge within the scope of its mission.

Further, the request would contribute significantly to public understanding of government operations or activities. SELC is a non-profit organization with 30 years of experience disseminating public information regarding EPA regulatory and operations issues. SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. *See* www.southernenvironment.org. SELC frequently publishes reports and issues press releases regarding its projects. SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. Lawyers at SELC are interviewed by the media to explain their work and its significance and speak at conferences on particular topics. SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites.

We specifically seek these records in order to increase public understanding about the coal ash pond at one of the largest coal plants in the country. A fee waiver will benefit the general public through increased notice and understanding of the coal ash pond at Plant Scherer and generally.

If this request for a fee waiver is denied, please notify me promptly and provide an estimate of the fees associated with the request. If you require any further information or documentation, please do not hesitate to contact me at (404) 521-9900 or sshelton@selcga.org. Thank you for your time and attention to this request. I look forward to receiving the public records requested.

Sincerely,



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